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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,718	12/10/2003	Jon Forman	1195.1101101	2042

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

EXAMINER

SHARMA, RASHMI K

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/732,718

Applicant(s)

FORMAN, JON

Examiner

Rashmi K. Sharma

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 10-15 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 2 and 7-9 is/are allowed.
- 6) ☒ Claim(s) 3-6 and 16-19 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>3/16/05</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/17/04</u> . | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-9 and 16-19, drawn to a material conveyance apparatus, classified in class 198, subclass 805.
- II. Claims 10-15, drawn to a support device, classified in class 198, subclass 826.

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as incorporating a belt tensioner within the support structure. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mark Shroeder on 3/16/05 a provisional election was made without traverse to prosecute the invention of Group I drawn to a material conveyance device, claims 1-9 and 16-19. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-15 have been withdrawn

Art Unit: 3651

from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Specification

The disclosure is objected to because of the following informalities: it appears that line 4 of the Abstract should recite "...first and second...". Appropriate correction is required.

Drawings

Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the roller in claim 18 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "the first support device and the second support device" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation of "a flexible length device". It is unclear as to what the structural difference is between the "lateral support device" and "a flexible length device". These two claim limitations appear to be referring to the same structure. Is the flexible length device the tensioner alone or a combination of the tensioner coupled with the first and second support structure. Further clarification is required.

Claim 5 recites the limitation of "a cross member". It is unclear as to what the structural difference is between the "lateral support device" and "a cross member". These two claim limitations appear to be referring to the same structure. Further clarification is required.

Claim 6 recites the limitation "a first lateral support device" and "a second lateral support device". Does Applicant intend to further limit claim 4 or is the Applicant introducing 2 new, additional lateral support devices. Further clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 16, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Ecker et al. (U.S. Patent number 5,398,804).

Ecker et al. discloses a material conveyance apparatus comprising a belt (20, 21) having a first side edge and a second side edge (see Figure 7), each side edge including a number of engaging devices (15) including a number of magnets (12), a first support rail (10) including a number of magnets (23) adapted to be engaged by the engaging devices (15), a second support rail (11) including a number of magnets (23) adapted to be engaged by the engaging devices (15), wherein the belt (20, 21) is disposed with respect to the support rails (10, 11) such that the magnets of the support rails (10, 11) repel the magnets of the engaging devices (15), a roller (25, 26) disposed with respect to the belt (20, 21) to provide vertical support to the belt (see Figure 4) and an electrical connection to at least one of the number of magnets wherein the electrical connection and a magnet coupled to the electrical connection are adapted to vary the magnetic field (read column 7 lines 31-36).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Ecker et al. (U.S. Patent number 5,398,804) in view of Rogus (U.S. Patent number 5,441,458).

Ecker et al. as disclose above, fail to show a tensioner member.

Rogus does disclose a tensioner member (48).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the tensioner of Rogus' invention to that Ecker's invention in order to provide for additional belt support creating less or more sag within the belt arrangement as preferred or desired by the user.

Allowable Subject Matter

Claims 1, 2 and 7-9 have been allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Independent claim 1 recites the structural limitation of a material conveyance apparatus comprising a belt having first and second side edges and a first and second support structure, wherein the belt is disposed with respect to the first and second support structures such that a magnetic force between the first magnets and the third magnets supports the first side edge, and a magnetic force between the second magnets and the fourth magnets supports the second side edge, in combination with the rest of the recited structure, clearly defines over the prior art. The unique arrangement of the first, second, third and fourth magnets coupled to the side edges of the belt and coupled to the support structure allow for the belt to be supported via levitation.

Claims 3-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 703-306-5952. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

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